



EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

NO PROTEST RECEIVED
Release to Manager, EO Determinations - Cincinnati

DATE: [REDACTED]

SURNAM [REDACTED]

050

Date: APR 9 2003

[REDACTED]

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(7). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

The information provided indicates that you are an association formed in the state of [REDACTED] on [REDACTED]. You were established for the purpose of operating a social organization, exclusively for pleasure and recreation. Your primary activity is to offer alcoholic beverages to members in conjunction with a cooking school operated by [REDACTED], a for-profit grocery store on its premises. You have indicated that the cooking school is located in a "dry" area, meaning state law prohibits the purchase or sale of alcoholic beverages in your area to the public, unless bought or sold at a private club.

Virtually all of your members become members by taking a cooking class offered by the cooking school. Members are entitled to consume alcoholic beverages, generally 2 four ounce glasses of wine, while attending the class.

Your members are not assessed regular fees or dues. Instead, membership is included as part of the fee to attend the cooking class. Each person attending a cooking class is charged a fee to attend the class. Of the total fee for the class, \$[REDACTED] will be used for your operations. Members who do not wish to consume alcohol are still charged the \$[REDACTED] fee.

You currently have two classes of membership, charter and regular. You indicate that both classes share the same rights and privileges with the exception of term. Regular members are members for a period of one year; however, charter members are members indefinitely. As of [REDACTED], you have [REDACTED] charter members and, as of [REDACTED], you have [REDACTED] regular members. Charter members are maintained because the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Commission Code requires a minimum number of members to qualify for the issuance and annual renewal of your alcohol permit.

You have two separate written contractual agreements with the grocery store. A sub-lease agreement with the grocery store that provides that you will pay rent for use of the school while classes are conducted computed at twenty-five percent (25%) of your monthly revenue for serving alcoholic beverages to your members. A management service agreement provides that the grocery store will manage, supervise and direct substantially all your operations for a fee of 2.5% of "gross receipts." Also, the cost of shared employees and expenses are prorated and allocated based upon a fraction, the numerator of which is the amount of gross sales of total alcoholic beverages service charges collected by you at the school and the denominator of which is the sum of total food, non-alcoholic beverage, gift, novelty, and other sales by the grocery store plus total alcoholic beverages service charges collected by you at the school. Additionally, an unwritten loan agreement exists between you and the grocery store as evidenced by a liability entry on your balance sheet. Terms of the loan agreement are unknown.

Section 501(c)(7) of the Internal Revenue Code exempts from federal income tax qualified social clubs, which are organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7) of the Income Tax Regulations provides that generally this tax exemption extends to social and recreation clubs that are supported solely by membership fees, dues, and assessments.

Section 1.501(c)(7)-1(b) of the regulations provides that a club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not exempt under section 501(a).

In Revenue Ruling 58-588, 1958, C.B. 265, an organization formed by several individuals to operate a health and recreational club, but whose predominant activity is the selling of services for profit to an unlimited number of so-called members who have no voice in the management of the club and whose only rights are to use the club's facilities upon payment of specified fees, is not a social club under section 501(c)(7).

Your primary function is to hold a liquor license so that the grocery store can offer wine to its cooking school students in a "dry" area of the state. You have contracted with the grocery store to pay rent, management fees and share costs based on a total revenue percentage formula. Membership is based solely on taking a cooking class at the school as is your source of revenue. Your name even infers a substantial tie to the cooking school. Your activities are so intertwined with the for-profit activities of the cooking school that you primarily serve the business interests of the school rather than being primarily organized for social purposes.

[REDACTED]

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(7) of the Code and you must file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
[REDACTED]
T:EO:RA:T:4, Rm 3L3
1111 Constitution Ave, N.W.
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

(Signed) Gerald V. Sack

Gerald V. Sack
Manager, Exempt Organizations
Technical Group 4